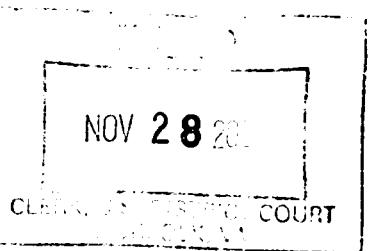


UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

JAMES ALEXANDER, III,



Plaintiff,

v.

ACTION NO. 2:07cv291

E.J. KILLIAN,

Defendant.

**DISMISSAL ORDER**

Plaintiff, a Virginia inmate, brought this pro se action, pursuant to 42 U.S.C. § 1983, to redress alleged violations of his constitutional rights.

By order filed September 21, 2007, this court directed plaintiff to pay an initial partial filing fee in the amount of \$4.00 within thirty (30) days from the date thereof. Plaintiff was admonished that failure to comply with the court's order would result in dismissal of this action. A reasonable period of time has now passed, and plaintiff has neither paid the assessed initial partial filing fee nor provided any reason why the court should grant an extension of time in which to pay the initial partial filing fee. Accordingly, it is **ORDERED** that this action be **DISMISSED** without prejudice to plaintiff's right to resubmit the case.<sup>1</sup> Plaintiff is cautioned, however, that the statute of limitations continues to run.

Plaintiff is ADVISED that he may appeal from this Dismissal Order by forwarding a written notice of appeal to the Clerk of the United States District Court, U.S. Courthouse, 600 Granby

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<sup>1</sup> Since this is a procedural dismissal without prejudice, the four-factor test enunciated in Doyle v. Murray, 938 F.2d 33, 34 (4th Cir. 1991), is inapplicable. The dismissal in Doyle was with prejudice pursuant to Federal Rule of Civil Procedure 41(b), which "operates as an adjudication upon the merits." Such is not the case here.

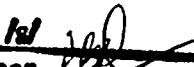
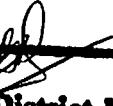
Street, Norfolk, Virginia 23510. Said written notice must be received by the Clerk within thirty (30) days from the date of this Dismissal Order. If plaintiff wishes to proceed in forma pauperis on appeal, the application to proceed in forma pauperis is to be submitted to the Clerk, United States Court of Appeals, Fourth Circuit, 1100 E. Main Street, Richmond, Virginia 23219.

The Clerk is **REQUESTED** to send a copy of this Dismissal Order to plaintiff at his last known address.

IT IS SO ORDERED.

Norfolk, Virginia

November 28, 2007

  
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**Robert G. Doumar**   
**Senior United States District Judge**